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REVIEW OF THE EFFICIENCY OF THE ADMINISTRATIVE AND FINANCIAL FUNCTIONING OF THE UNITED NATIONS

Report of the Fifth Committee (Part III)

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I. INTRODUCTION

1. The previous recommendations made by the Fifth Committee to the General Assembly under agenda item 121 appear in the report of the Committee contained in document A/48/801 and Add.1.

2. The Fifth Committee further considered the item at its 62nd, 68th and 74th meetings, on 25 April, 21 June and 19 July 1994. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/48/SR.62, 68 and 74).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.5/48/L.87 AND DRAFT DECISIONS A/C.5/48/L.88 AND L.89

3. At its 74th meeting, on 19 July 1994, the representative of Belgium, following informal consultations, introduced draft resolution A/C.5/48/L.87 and draft decisions A/C.5/48/L.88 and L.89. At the same meeting, the Committee adopted the draft resolution and the draft decisions without a vote (see paras. 7 and 8 below).

Programme budget implications of draft resolution A/C.5/48/L.87

4. At its 74th meeting, on 19 July 1994, the Fifth Committee, pursuant to rule 153 of the rules of procedure of the General Assembly, considered the statement by the Secretary-General (A/C.5/48/82) on the programme budget implications of draft resolution A/C.5/48/L.87. The report of the Advisory Committee on Administrative and Budgetary Questions was presented orally by its Chairman.

5. Statements and comments made in the course of the Committee's consideration of the item are reflected in the relevant summary record (A/C.5/48/SR.74).

6. On the basis of the statement of programme budget implications submitted by the Secretary-General, and in the light of the statement of the Chairman of the Advisory Committee on Administrative and Budgetary Questions, the Fifth Committee decided to inform the General Assembly that, should it adopt draft resolution A/C.5/48/L.87, no change in the appropriation for 1994-1995 would be required at this stage. If additional resources were required under section 31, the Secretary-General would report to the General Assembly for appropriate action. The activities to be undertaken under the draft resolution would relate to programmes 40 and 42 of the medium-term plan. With regard to the review and appraisal of the use of resources, these will be done in order to guarantee the implementation of programmes and legislative mandates.

III. RECOMMENDATIONS OF THE FIFTH COMMITTEE

7. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Review of the efficiency of the administrative and financial functioning of the United Nations

The General Assembly,

Recalling its responsibility under Article 17 of the Charter of the United Nations with regard to financial and budgetary measures,

Reaffirming Article 97 of the Charter concerning the responsibility of the Secretary-General as Chief Administrative Officer,

Reaffirming also Article 101 of the Charter,

Recognizing the increased importance, cost and complexity of United Nations activities,

Recalling its resolution 48/218 of 23 December 1993, whereby it, inter alia, resolved that the decision to establish an additional independent entity, taking into account Article 97 of the Charter, to enhance oversight functions, in particular with regard to evaluation, audit, investigation and compliance, be taken subject to the definition of its modalities, including its relationship with existing control mechanisms,

Reaffirming its resolution 48/218, whereby it emphasized the need to ensure respect for separate and distinct roles of internal and external oversight mechanisms, and to strengthen the external oversight mechanisms,

Taking note of the note by the Secretary-General 1/ on the establishment of the Office for Inspections and Investigations,

Taking note also of the note by the Secretary-General 2/ containing the letter from the Chairman of the Panel of External Auditors of the United Nations, the specialized agencies and the International Atomic Energy Agency and Chairman of the Board of Auditors relating to the improvement of oversight and as called for in section II, paragraph 8 of resolution 48/218,

Taking note further of the note by the Secretary-General 3/ containing the report of the Joint Inspection Unit on accountability and oversight in the United Nations Secretariat,

1. Reaffirms the role of the Board of Auditors as an external control mechanism pursuant to resolution 74 (I) of 7 December 1946, other relevant resolutions of the General Assembly and the Financial Rules and Regulations of the United Nations, for oversight, monitoring and control by the General Assembly of the administrative and financial functioning of the United Nations;

2. Also reaffirms the role of the Joint Inspection Unit in accordance with its mandate, contained in General Assembly resolution 31/192 of 22 December 1976;

3. Further reaffirms the existing mandates of relevant intergovernmental and expert bodies of the General Assembly in the field of administration, budgetary and management matters;

4. Decides to establish an Office of Internal Oversight Services under the authority of the Secretary-General, the head of which will be at the rank of Under-Secretary-General;

5. Decides also that the Office shall assume the functions prescribed for the Office for Inspections and Investigations in the note by the Secretary-General, 1/ as amended by the present resolution and subject to the modalities defined below, with a view to strengthening the executive capabilities of the Secretary-General:

(a) Mode of operation

The Office will exercise operational independence under the authority of the Secretary-General in the conduct of its duties and, in accordance with Article 97 of the Charter, have the authority to initiate, carry out and report

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1/ A/48/640.

2/ A/48/876.

3/ A/48/420.

on any action which it considers necessary to fulfil its responsibilities with regard to monitoring, internal audit, inspection and evaluation and investigations as set forth in the present resolution;

(b) Appointment

(i) The Under-Secretary-General for Internal Oversight Services shall be an expert in the fields of accounting, auditing, financial analysis and investigations, management, law or public administration;

(ii) The Under-Secretary-General for Internal Oversight Services shall be appointed by the Secretary-General, following consultations with Member States and approved by the General Assembly. For this purpose, the Secretary-General shall appoint the Under-Secretary-General for Internal Oversight Services with due regard for geographic rotation and in so doing shall be guided by the provisions of paragraph 3 (g) of General Assembly resolution 46/232 of 2 March 1992 whereby the Assembly decided, in particular, that, as a general rule, no national of a Member State should succeed a national of that State in a senior post and there should be no monopoly on senior posts by nationals of any State or group of States;

(iii) The Under-Secretary-General for Internal Oversight Services shall serve for one fixed term of five years without possibility of renewal;

(iv) The Under-Secretary-General for Internal Oversight Services may be removed by the Secretary-General only for cause and with the approval of the General Assembly;

(c) Functions

The purpose of the Office of Internal Oversight Services is to assist the Secretary-General in fulfilling his internal oversight responsibilities in respect of the resources and staff of the Organization through the exercise of the following functions:

(i) Monitoring

The Office shall assist the Secretary-General in implementing the provisions of article V of the Programme Planning Regulations on monitoring of programme implementation;

(ii) Internal audit

The Office shall, in accordance with the relevant provisions of the Financial Regulations and Rules examine, review and appraise the use of financial resources of the United Nations in order to guarantee the implementation of programmes and legislative mandates, ascertain compliance of programme managers with the financial and administrative regulations and rules, as well as with the approved recommendations of external oversight bodies, undertake management audits, reviews and surveys to improve the Organization's structure and responsiveness to

the requirements of programmes and legislative mandates, and monitor the effectiveness of the Organization's systems of internal control;

(iii) Inspection and evaluation

The Office shall evaluate the efficiency and effectiveness of the implementation of the Organization's programmes and legislative mandates. It shall conduct programme evaluations with the purpose of establishing analytical and critical evaluations of the implementation of programmes and legislative mandates, examining whether changes therein require review of the methods of delivery, the continued relevance of administrative procedures and whether the activities correspond to the mandates as they may be reflected in the approved budgets and the medium-term plan of the Organization;

(iv) Investigation

The Office shall investigate reports of violations of United Nations Regulations, Rules and pertinent administrative issuances and transmit to the Secretary-General the results of such investigations together with appropriate recommendations to guide the Secretary-General in deciding on jurisdictional or disciplinary action to be taken;

(v) Implementation of recommendations and reporting procedures

a. Following the completion of any audits, inspections or investigations undertaken by the Office pursuant to its mandate, as defined by the present resolution, the Office shall submit the reports on such work to the programme managers concerned, in accordance with procedures for transmittal, approval of recommendations and the resolution of disputes to be established by the Secretary-General;

b. The Office shall report to the Secretary-General as and when necessary but at least twice yearly on the implementation of recommendations addressed to the programme managers in accordance with the procedures referred to above;

c. The Secretary-General shall facilitate the prompt and effective implementation of the approved recommendations of the Office, and inform the General Assembly of actions taken in response thereto;

(d) Support and advice to management

The Office of Internal Oversight Services may advise programme managers on the effective discharge of their responsibilities, provide assistance to programme managers in implementing recommendations, ascertain that programme managers are given methodological support, and encourage self-evaluation;

(e) Reporting

(i) In accordance with the provisions of paragraph 5 (c) above, the Office shall submit to the Secretary-General reports that provide insight into the effective utilization and management of resources and the protection of assets; the Secretary-General shall ensure that all such reports are made available to the General Assembly as presented by the Office, together with any separate comments the Secretary-General may deem appropriate;

(ii) The Office shall also submit to the Secretary-General for transmittal as received to the General Assembly, together with separate comments the Secretary-General deems appropriate, an annual analytical and summary report on its activities for the year;

(iii) The Board of Auditors and the Joint Inspection Unit shall be provided with copies of all final reports produced by the Office as well as the comments of the Secretary-General on them, and shall provide the General Assembly with their comments as appropriate;

6. Requests the Secretary-General to ensure that the Office has procedures in place that provide for direct confidential access of staff members to the Office and for protection against repercussions, for the purposes of suggesting improvements for programme delivery and reporting perceived cases of misconduct;

7. Also requests the Secretary-General to ensure that procedures also be in place that protect individual rights, the anonymity of staff members, due process for all parties concerned and fairness during any investigations; that falsely accused staff members are fully cleared; and that disciplinary and/or jurisdictional proceedings are initiated without undue delay in cases where the Secretary-General considers it justified; such procedures shall include any necessary amendments to the Staff Regulations and Rules and to the disciplinary hearing procedures and, to the extent possible, should take into account the relevant recommendations of the Intergovernmental Group established under General Assembly resolution 48/218, approved by the General Assembly;

8. Decides that the Office of Internal Oversight Services shall be financed from appropriations approved under section 31, Office for Inspections and Investigations, of the programme budget for the biennium 1994-1995;

9. Decides also that future programme budget proposals of the Office of Internal Oversight Services shall be submitted by it to the Secretary-General who shall, with due regard for the relevant provisions of General Assembly resolution 41/213 of 19 December 1986 and for the necessity of providing adequate resources for the Office's functioning to be effective, submit proposals to the General Assembly for its consideration and approval according to established procedures;

10. Requests the Secretary-General in this regard, when preparing the budget proposals for the Office of Internal Oversight Services, to take into

account the Office's independence in the exercise of the functions defined in paragraph 5 above;

11. Also requests the Secretary-General to submit to the General Assembly, at its forty-ninth session, following consultations with the Executive Boards of the United Nations operational funds and programmes, a detailed report containing recommendations on the application of the present resolution as it pertains to the internal oversight functions of such funds and programmes, including methods by which the Office could assist such funds and programmes in enhancing their internal oversight mechanisms;

12. Decides to include in the provisional agenda of its fiftieth session an item entitled "Report of the Secretary-General on the activities of the Office of Internal Oversight Services";

13. Decides also to evaluate and review the functions and reporting procedures of the Office of Internal Oversight Services at its fifty-third session and to that end to include in the provisional agenda of that session an item entitled "Review of the implementation of resolution 48/___".

8. The Fifth Committee also recommends to the General Assembly the adoption of the following draft decisions:

DRAFT DECISION I

The General Assembly decides to reaffirm paragraph (b) of its decision 47/454 of 23 December 1992 and, in this regard, to consider at its regular forty-ninth session measures for the improvement of the effectiveness and the possible strengthening of the external oversight mechanisms on the basis of the material and views presented to it pursuant to paragraph (b) of its decision 47/454, bearing in mind the expansion of the activities of the Organization since the forty-seventh session of the General Assembly.

DRAFT DECISION II

The General Assembly decides to request the Secretary-General to report to the General Assembly at its forty-ninth session on the procedures in place for the implementation of article VIII, section 29, of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly in its resolution 22 A (I) of 13 February 1946, under which the United Nations shall make provisions for appropriate modes of settlement of:

(a) Disputes arising out of contracts or other disputes of a private law character, to which the United Nations is a party;

(b) Disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.